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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/594,479 06/14/00 OTSUKI

H 192520US2

022850 MM41/1003  
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EXAMINER

PUNNOOSE, R  
ART UNIT PAPER NUMBER

2877  
DATE MAILED: 10/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/594,479

Applicant(s)

OTSUKI ET AL.

Examiner

Roy M. Punnoose

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-17 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has not disclosed what the invention comprises of in claim 1.

3. Claim 2-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2-8 are rejected because they are dependent claims of rejected base claim, claim 1. Accordingly, claims 1-8 have not been further treated/examined on the merits.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 9, line 9, the applicant has not stated what the modeling parameters are. Is it size, or, velocity, or, temperature, or, color?.

b. In claim 9, line 19 (page 44, line 8), it is stated that "evaluating a measurement of particle". The word "evaluating" has broad meaning and could mean that the particle is

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being evaluated for size, or, velocity, or, temperature, or, color, etc. The applicant is required to specifically point out what the particle is being evaluated for.

5. Claim 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 10-11 are rejected because they are dependent on a rejected base claim, claim 1.

***Allowable Subject Matter***

1. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

2. Claims 10-11 would be allowable the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action can be overcome, and they include all of the limitations of the base claim and any intervening claims.

1. Claims 12-17 are allowable because none of the prior art references disclose a particle measurement system comprising the combination of inventive elements as disclosed in claims 12-17.

***Conclusion.***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Examiner Roy M. Punnoose** whose telephone number is **703-306-9145**. The examiner can normally be reached on 8:30 AM - 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the applicant can reach his **Supervisory Patent Examiner, Frank G. Font**, at (703) 308-4881.

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The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a **general nature** or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 305-0530**.

Roy M. Punnoose   
Patent Examiner  
Art Unit 2877  
September 30, 2001

  
\_\_\_\_\_  
Mr. Frank G. Font  
Supervisory Patent Examiner